

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

WESLEY D. HEMPHILL,

Plaintiff,

v.

ANDREW J. HALE, et al.,

Defendants.

Cause No. 4:09-CV-2123

JURY TRIAL DEMANDED

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. §1441

Separate Defendants Andrew J. Hale, Jeffrey N. Seerey, Tim Lowery, and City of Florissant, Missouri, (collectively “Defendants”), by and through counsel, pursuant to 28 U.S.C. §§ 1441(a) and (b) and 1446(a), (b) and (d), hereby provide notice of their removal to the United States District Court for the Eastern District of Missouri, Eastern Division, of this cause of action filed in the Circuit Court of the County of St. Louis, State of Missouri, styled *Wesley D. Hemphill v. Andrew J. Hale, et al.*, Cause No. 09SL-CC 04918. In support of this Notice, Defendants state as follows:

1. There is now pending in the Circuit Court of St. Louis County, Missouri, a certain civil action styled “*Wesley D. Hemphill v. Andrew J. Hale, et al.*,” being civil action number 09SL-CC04918 on the docket of said Court.
2. Plaintiff’s Petition is brought in five counts. Counts II, III, IV, and IV of Plaintiff’s Petition each allege a violation of Plaintiff’s rights under the 4th Amendment pursuant to 42 U.S.C. §1983
3. Count I of Plaintiff’s Petition alleges a state law claim for replevin.

4. This Court has original jurisdiction over II, III, IV, and IV of Plaintiff's Petition pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4), and 42 U.S.C. §1983. This Court has supplemental jurisdiction over Count I, Plaintiff's state law claims pursuant to 28 U.S.C. §1367(a).

5. Certified copies of all process, pleadings and orders in this matter are attached hereto as Exhibit A.

6. The Petition set forth in Exhibit A was served upon Defendants by the Sheriff of St. Louis County, and fewer than thirty days have elapsed between the service of Plaintiff's Petition and the filing of this Notice.

WHEREFORE, Defendants provide Notice of Removal of the above-styled action pending against them in the Circuit Court of the County of St. Louis, State of Missouri to the United States District Court for the Eastern District of Missouri.

**KING, KREHBIEL, HELLMICH
HACKING & BORBONUS, LLC**

By: /s/ John N. Borbonus
JOHN N. BORBONUS #45012
2000 South Hanley Road
St. Louis, MO 63144
(314) 646-1110
(314) 646-1122 (fax)
jborbonus@khhb.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served upon the following by e-mail and U.S. Mail, postage prepaid, this 30th day of December, 2009:

W. Beavis Schock, Esq.
7777 Bonhomme Avenue, Suite 1300
St. Louis, MO 63105
wbschock@schocklaw.com
Attorneys for Plaintiff

The undersigned hereby further certifies that a true and accurate copy of the foregoing was served upon the following by U.S. Mail, postage prepaid, this 30th day of December, 2009:

Joan M. Gilmer
St. Louis County Circuit Clerk
7900 Carondelet Avenue
Clayton, MO 63105

/s/ John N. Borbonus